

CR 16.1 FORM OF PRETRIAL ORDER

The following form of pretrial order shall be used, insofar as possible, in the trial of all cases except those involving land condemnation.

Hon. [name of judge]

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT _____

_____)	
)	
Plaintiff,)	No. _____
)	
vs.)	PRETRIAL ORDER
)	
_____)	
)	
Defendant.)	
_____)	

JURISDICTION

Jurisdiction is vested in this court by virtue of: (State the facts and cite the statutes whereby jurisdiction of the case is vested in this court).

CLAIMS AND DEFENSES

The plaintiff will pursue at trial the following claims: (E.g., breach of contract, violation of 28 U.S.C. § 1983). The defendant will pursue the following affirmative defenses and/or claims: (E.g., accord and satisfaction, estoppel, waiver).

ADMITTED FACTS

The following facts are admitted by the parties: (Enumerate every agreed fact, irrespective of admissibility, but with notation of objections as to admissibility. List 1, 2, 3, etc.)

The plaintiff contends as follows: (List 1, 2, 3, etc.)

The defendant contends as follows: (List 1, 2, 3, etc.)

(State contentions in summary fashion, omitting evidentiary detail. Unless otherwise ordered by the court, the factual contentions of a party shall not exceed two pages in length. Examples of properly and improperly drafted contentions are set forth below.

ISSUES OF LAW

The following are the issues of law to be determined by the court: (List 1, 2, 3, etc., and state each issue of law involved. A simple statement of the ultimate issue to be decided by the court, such as "Is the plaintiff entitled to recover?" will not be accepted.) If the parties cannot agree on the issues of law, separate statements may be given in the pretrial order.

EXPERT WITNESSES

(a) Each party shall be limited to _____ expert witness(es) on the issues of _____.

(b) The name(s) and addresses of the expert witness(es) to be used by each party at the trial and the issue upon which each will testify is:

(1) On behalf of plaintiff;

(2) On behalf of defendant.

OTHER WITNESSES

The names and addresses of witnesses, other than experts, to be used by each party at the time of trial and the general nature of the testimony of each are:

(a) On behalf of plaintiff: (E.g., Jane Doe, 10 Elm Street, Seattle, WA; will testify concerning formation of the parties' contract, performance, breach and damage to plaintiff.)

(b) On behalf of defendant: (follow same format).

(As to each witness, expert or others, indicate "will testify," or "possible witness only." Also indicate which witnesses, if any, will testify by deposition. Rebuttal witnesses, the necessity of whose testimony cannot reasonably be anticipated before trial, need not be named.)

EXHIBITS

(a) Admissibility stipulated:

Plaintiff's Exhibits

1. Photo of port side of ship. (Examples)

2. Photo of crane motor.

3. Photo of crane.

Defendant's Exhibits

A-1. Weather report. (Examples)

A-2. Log book.

A-3. X-ray of plaintiff's foot.

A-4. X-ray of wrist.

(b) Authenticity stipulated, admissibility disputed:

Plaintiff's Exhibits

4. Inventory Report. (Examples)

Defendant's Exhibits

A-5. Photograph. (Examples)

(c) Authenticity and admissibility disputed:

Plaintiff's Exhibits

5. Accountant's report. (Examples)

Defendant's Exhibits

A-6. Ship's log.

(No party is required to list any exhibit which is listed by another party, or any exhibit to be used for impeachment only. See below for further explanation of numbering of exhibits).

ACTION BY THE COURT

(a) This case is scheduled for trial (before a jury) (without a jury) on _____, 20____, at _____.

(b) Trial briefs shall be submitted to the court on or before _____.

(c) (Omit this subparagraph in non-jury case). Jury instructions requested by either party shall be

submitted to the court on or before _____. Suggested questions of either party to be asked of the jury by the court on voir dire shall be submitted to the court on or before _____.

(d) (Insert any other ruling made by the court at or before pretrial conference.)

This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by a subsequent order. This order shall not be amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

DATED this ____ day of [insert month], 20[insert year].

United States District Judge/ Magistrate Judge

FORM APPROVED

Attorney for Plaintiff

Attorney for Defendant

(2) Drafting of Contentions. Statements of contentions as to disputed facts should be brief and generally worded. The purpose of this section of the order is to apprise the court and the other parties of the general position of each party on major fact issues. Lengthy recitals and evidentiary detail are of little assistance, and serve only to impose unnecessary burdens upon the lawyer drafting them.

For example:

Proper:

1. Correspondence between the parties in November and December, 1982, established the price, quantity and time of delivery of the goods.

Improper:

1. On November 3, plaintiff wrote to defendant, stating _____ (etc.)

2. On November 7, 1982, defendant responded _____ (etc.)

3. On November 12, 1982, plaintiff replied _____ (etc.)

Proper:

1. Defendant was negligent in that: (a) the stabilizer on the aircraft was defectively designed; and (b) the airline was not given proper instructions as to maintenance and inspection of the stabilizer.

Improper:

1. The stabilizer on the aircraft was 117 inches in length and _____ (etc.)
2. Accepted industry standards provide that stabilizers must be _____ (etc.)
3. At an air speed of 570 mph, a stabilizer _____ (etc.)
4. Defendant distributed service bulletins on the stabilizer on _____ (etc.)

Proper:

1. Plaintiff's discharge was due to unsatisfactory performance of her job and insubordination to her supervisors. It was unrelated to her sex.

Improper:

1. Plaintiff made an error in balancing accounts on July 5, 1980, resulting in cost of \$7,300 to defendant.
2. Defendant attempted to provide plaintiff training and counseling about this incident, but she refused.
3. On August 13, 1980, plaintiff again _____ (etc.)
4. Plaintiff told Mr. Wilson on June 15, 1980, that she refused to _____ (etc.)

3. Numbering of Exhibits. The pretrial order identifies each exhibit with a number. This becomes the number for the exhibit at the trial, and appears on the exhibit tag. Plaintiff's exhibits are to be numbered 1, 2, 3, etc. Defendant's exhibits are to be numbered A-1, A-2, A-3, etc.

[Effective May 1, 1992; amended effective March 30, 1995; July 1, 1997; January 1, 2002.]